

# JONES WALKER MEMO ENDORSED

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January 18, 2008

By *U.S. Mail*

Honorable Richard M. Berman  
United States District Judge  
United States District Court  
Southern District of New York  
500 Pearl Street, Room 650  
New York, New York 10007

Re: *Argo Turboserve Corporation v. Dean Angelle and Denise Angelle*  
USDC, SDNY, 07 CIV 8410 (RMB)

Dear Judge Berman:

Conference on 2/5/08 to discuss  
pending motion proposed  
amendment to complaint, etc.  
Time: 10:00 AM

SO ORDERED:  
Date: 1/28/08

*Richard M. Berman*  
Richard M. Berman, U.S.D.J.

We represent defendants, Dean and Denise Angelle ("the Angelles"), in the above referenced matter. We write, pursuant to your Honor's Individual Practice Rule 1(E), to request an extension of the deadline for amending pleadings until thirty (30) days following this Court's adjudication of the Angelles' pending Motions to Dismiss.

On December 3, 2007, this Court entered a Case Management Plan and Scheduling Order, which designated February 4, 2008 as the final date upon which either party may file amended pleadings. (Rec. Doc. No. 15). In lieu of an answer, on December 4, 2007, the Angelles filed their Motions to Dismiss pursuant to Federal Rule of Civil Procedure 12(b). (Rec. Doc. No. 16). Plaintiff, Argo Turboserve Corporation ("ATC"), thereafter filed its memorandum in opposition on December 22, 2007 (Rec. Doc. No. 20), and the Angelles timely filed their Reply on January 4, 2007. (Rec. Doc. No. 22).

The Angelles' Motions to Dismiss are presently before this Court and the Angelles' have requested oral argument. The Angelles assert that if this Court grants the Angelles' Motions to Dismiss, then the present request is unnecessary; however, should this Court deny any or all of the Angelles' Motions to Dismiss, then the parties will need additional time within which to file amended pleadings. The Angelles have yet to file an answer and seek to ensure adequate time for response by both parties.

The Angelles' recognize that Rule 12(b) of the Federal Rules of Civil Procedure provides that in the event of a Rule 12(b) motion, "if the court denies the motion or postpones its disposition until the trial on the merits, the responsive pleading shall be served within 10 days after notice of the court's action." FED. R. CIV. P. 12(b) (2007). However, in an abundance of

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caution, the Angelles request that the deadline for amendment of the pleadings be extended to thirty (30) days following this Court's ruling on the Motions to Dismiss to allow both parties adequate time to amend the pleadings once the Angelles file their answer.

The Angelles submit that they have not previously requested any adjournment or extension in this matter. ATC presently asserts that such an extension would be premature. As such, ATC does not consent and has not joined in requesting the present extension.

Respectfully submitted,



Eric Michael Liddick

EML/aba

Cc: Steven J. Cohen, Esq.  
Counsel of Record for Plaintiff